IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

Writ Petition No.4383 of 2007

**Sau. Varsha wife of Chandrashekhar Ganvir,
aged 30 years,
occupation Household,
resident of Ward No.2,
Khadgaon,
Tq. & Distt. Nagpur. .... Petitioner.**

Versus

**1. The Returning Officer
Village Panchayat Elections,
Nagpur [Rural] & Nayab
Tahsildar, Civil Lines,
MLA Hostel Square,
WHC Road, Nagpur.**

**2. The Secretary, Grampanchayat
Khadgaon,
Tq. & Distt. Nagpur.**

**3. Rekha wife of Ashok Thakre,
aged 33 years,
Occupation Household,
resident of Ward No.1,
Khadgaon,
Tq. & Distt. Nagpur. .... Respondents.**

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Mr. B.G. Kulkarni, Advocate for the petitioner.

Mr. Kothari, Asstt. Govt. Pleader for Respondent No.1.

Mr. Patil, Advocate for Respondent No.3.

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CORAM : A.H.JOSHI AND R.C. CHAVAN,JJ.

Date : 26Th Sept.,2007.

ORAL JUDGMENT [Per A.H. Joshi, J.] :

01. This petition is tendered in the Court.

02. Learned Asstt. Govt. Pleader Mr. Kothari appears for respondent No.1 and waives service, and learned Advocate Mr. Patil, for respondent no.3, who prays for time to file an Affidavit-in-Reply. Service on respondent no.2 is dispensed with.

03. In view of the legal position which is discussed in the following paragraphs, we find that it would not be necessary to adjourn the hearing any further. Hence Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

04. The case proceeds on admitted fact, namely, the last date fixed for furnishing nomination was 22nd September, 2007. The petitioner was in arrears of taxes. The taxes were paid on 21st September, 2007. The Returning Officer rejected the nomination, holding that the taxes ought to have been paid prior to the date of furnishing

nominations.

05. We find that plain wording contained in Clause [i] of Explanation 2 to Clause [h] of Section 14 of the Bombay Village Panchayats Act, 1958, which refers to the day prescribed for nomination of the candidates does not include the words either a day prior to commencement of nomination, or a day fixed as a last day for nomination. It is, thus, clear that when there is no restriction on party's right to furnish any number of nominations, a valid nomination, after payment of entire dues, can be furnished even on last day. By this plain interpretation, the nomination furnished by a candidate before payment of taxes, however, whose arrears of taxes are cleared a day prior to last day, can very well be found to be within the yardstick of law.

06. The question as to before which date the taxes should be paid, namely, first or last, is no more *res in tegra* in view of reported judgment of this Court in case of Ramkrishna Vithoba Pardhi & others Vs. W.T. Kamhade, Returning Officer & another [1984 Mh. L.J. 816].

07 We, thus, make the Rule absolute in terms of Prayer Clauses [i] and [ii] of the Writ Petition.

08. Learned Asstt. Govt. Pleader Mr. Kothari undertakes to communicate this order to the Returning Officer. Steno copy of this order be furnished to learned Asstt. Govt. Pleader free of cost, to act upon.

JUDGE **JUDGE**

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